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consented to a reference and the Court was glad of this. (*The Germania*, 4 Lloyd's P. C. 237.)¹

The London *Times* of January 18, 1918, states that the *Germania* only realized £10,000, and was bought by Mr. H. Hannevig, a Norwegian resident in London, and transferred to his brother, Mr. C. Hannevig, of New York. Ten thousand pounds was deposited with the marshal as a guarantee that during the war she would not be transferred to an enemy, and this sum was, through the marshal, presented by Mr. C. Hannevig to the British and French Red Cross Societies, a new guarantee being substituted. (4 Lloyd's P. C., p. 238, note.)

It appears that a Belgian yacht, the *Primavera*, was seized by the Germans when they entered Antwerp, and condemned in the Hamburg Prize Court. The Court said it was not established that the nations have firmly adopted the practice of excluding yachts from the right of capture at sea. (4 Lloyd's P. C., p. 265, note.)

Mr. Bateson, K.C., contended in the English Prize Court that the German Court placed the *Primavera* in the same category as merchant ships, but his contention was not successful in inducing like action in the English courts.

The cases seem to establish that the old classification of vessels as ships of state or merchant ships is not comprehensive. That yachts, either designed for pleasure cruising or for racing, and whether propelled by steam or sail, are a separate class, and not entitled to the special exemptions or privileges accorded to either of the other classes.

CHARLES NOBLE GREGORY.

AGREEMENT BETWEEN THE UNITED STATES AND GERMANY
CONCERNING PRISONERS OF WAR ²

On November 11, 1918, the American and German delegates at Berne signed an agreement concerning prisoners of war, sanitary, personnel and civil prisoners. As the armistice was signed on the same date, the provisions of this Prisoners' Agreement were superseded by the terms of the armistice, and therefore it is unlikely that

¹ The decision was affirmed by the Judicial Committee of the Privy Council March 29, 1917. 4 Lloyd's P. C., p. 266.

² Printed in Supplement to American Journal of International Law, January, 1919.

the Prisoners' Agreement will ever be ratified and put into force. The provisions of this agreement, however, are of interest as showing the extent to which it was considered necessary to establish, by a most definite and explicit agreement, the enforcement of humane treatment of prisoners of war.

The treatment of prisoners of war had been previously considered at the two Hague Conferences, and the agreement reached, which was substantially the same at both Conferences, was embodied in a section of the annex relating to the Laws and Custom of War on Land, attached to Hague Convention II, of 1899, and Hague Convention IV, of 1907.

Both of the Conventions above mentioned provided that their provisions and regulations did not apply except between contracting powers, and then only if all the belligerents were parties to the Convention. Inasmuch as Serbia had never ratified the 1907 Convention it has not been applied in this war. The 1899 Convention, however, had been ratified or adhered to by all the belligerents engaged in the conflict until the entrance of Liberia on August 4, 1917, and therefore the provisions and regulations of this Convention were technically in force until that date.

The general treatment provided for in 1899 Hague Convention II was that the prisoners of war "must be humanely treated;" that they "may be interned in a town fortress, camp or any other locality, and bound not to go beyond certain fixed limits, but they can only be confined as an indispensable measure of safety;" and their labor may be utilized according to their rank and aptitude, but "their tasks shall not be excessive, and shall have nothing to do with the military operations;" and that they "shall be subject to the laws, regulations and orders in force in the army of the State into whose hands they have fallen." This agreement also contains regulations governing the employment at labor and the payment therefor, parole, establishment of a bureau of information and its functions, pay to officers, religious freedom, wills, burial, repatriation, etc. It further provides that "failing a special agreement between the belligerents, prisoners of war shall be treated as regards food, quarters, and clothing, on the same footing as the troops of the government which has captured them."

It would seem that these requirements were precisely the terms which any civilized and self-respecting nation would impose upon

itself in the treatment of its prisoners without the obligation of any treaty stipulations.

Furthermore a special agreement on this subject had been made in Article XXIV of the Treaty of Amity and Commerce between the United States and Prussia, signed July 11, 1799, revived by Article XII of the Treaty of May 1, 1828, and subsequently accepted by the German Government as binding upon the empire. By this agreement the two contracting parties solemnly pledged themselves that, in case of hostilities between them, prisoners of war should not be subjected to destructive treatment but

they shall be placed . . . in wholesome situations; that they shall not be confined in dungeons, prison-ships, nor prisons, nor be put into irons, nor bound, nor otherwise restrained in the use of their limbs; that the officers shall be enlarged on their paroles within convenient districts and have comfortable quarters, and the common men be disposed in cantonments open and extensive enough for air and exercise, and lodged in barracks as roomy and good as are provided by the party in whose power they are for their own troops; that the officers shall also be daily furnished by the party in whose power they are with as many rations, and of the same articles and quality as are allowed by them, either in kind or by commutation, to officers of equal rank in their own army; and all others shall be daily furnished by them with such rations as they shall allow to a common soldier in their own service; . . . that each party shall be allowed to keep a commissary of prisoners of their own appointment, with every separate cantonment of prisoners in possession of the other, which commissary shall see that prisoners, as often as he pleases, shall be allowed to receive and distribute whatever comforts may be sent to them by their friends, and shall be free to make his reports in open letters to those who employ him. . . .

In view of the above-quoted provisions governing the treatment of American and German prisoners, and the standards supposed to have been reached by twentieth century civilization, it is significant that in this war it was considered imperative by the American Government to insist upon a new prisoners' agreement with Germany, which will be found to contain 184 articles, together with seven elaborate annexes.

From the provisions incorporated in this Prisoners' Agreement it would appear, that while in the year 1899 and also in the year 1907 the words "humane treatment" were regarded as having a universally accepted meaning, unnecessary of minute definition, in the year 1918, as a result of the treatment experienced by prisoners during this war, the American delegates deemed it advisable to set forth in the greatest detail the acts to be permitted and the acts to

be prohibited in complying with the regulation requiring "humane treatment" for prisoners.

Selecting at random from the provisions of this agreement it will be noted that the "humane treatment" of prisoners requires that they shall be protected "from acts of violence, ill-treatment, cruelties, personal insults and from public curiosity;" "against the inclemencies of the weather;" "against sickness, to the same extent as nationals of the captor state;" that they shall not be "treated as criminals;" that "prisoners of war shall be allowed to talk to each other;" that they "shall not be subjected to extreme heat or cold;" that such quantity and quality of wholesome food shall be provided "as is necessary to maintain unimpaired their normal physical health and working capacity;" that "dogs shall not be used as guards in the interior of prison camps, nor in guarding, working or exercising detachments unless they are in leash or are securely muzzled;" that they "shall be permitted to retain the clothing necessary for their personal use;" that they "shall neither be required to perform nor by menaces, threats or force coerced into volunteering to perform, any work directly related to the operations of the war;" that "all female personnel serving with the armed forces of either of the contracting parties shall, if captured, be given every possible protection against harsh treatment, insult or any manifestation of disrespect in any way related to their sex;" and many other provisions of a similar nature.

The Prisoners' Agreement also contains most explicit provisions governing the exercise of the duties undertaken by the neutral power designated to look after the interests of the captives by inspecting and reporting upon the conditions of their captivity; which work, as regards German prison camps, it will be remembered, was performed by American officials, prior to the breaking off of diplomatic relations between the United States and Germany.

Since, as a result of the conditions prevailing in some prisoners' camps during this war, it has been found necessary to enter into an agreement containing the provisions embodied in this agreement regulating the treatment of prisoners, it would seem desirable that an agreement along these lines should be included in the conventions growing out of the Peace Conference, in order that, as a matter of recognized and codified international law, prisoners of war should have the full protection against abuses which have not been pre-

vented even by the enlightened opinion of the twentieth century, as a safeguard in case a league of nations should not prove to be a complete and lasting barrier against future hostilities among nations.

CHANDLER P. ANDERSON.

INTERNATIONAL PARTICIPATION IN COURTS-MARTIAL

Certain of the French Courts have, during the war, invited Belgian advocates to appear before them. Recently, however, a Frenchman was permitted to appear in a court-martial in France upon a case conducted by American authorities. The matter related to several counts against a neutral civilian employee who was with the American Army. The French advocate appeared for the neutral alien.

The French advocate reports that he was received with every courtesy and was given every opportunity to defend his client before the court which particularly impressed him by its effort to reach a just decision regardless of all technicalities. In a French paper mentioning this case, significant mention is made of the desirability of more extended interchange of legal representatives before the French and American tribunals. The article closes:

"May the future—the immediate future—see this wish realized and as in all the great confederation of the allies may there be only one justice, one law and one united defense and sanction."

G. G. W.